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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 * * *

6 KENNETH HEARD, JR.,

7 Plaintiff,

8 v.

9 COSTCO WHOLESALE CORPORATION,
ET AL.,

10 Defendants.
11

Case No. 2:19-cv-00673-RFB-DJA

ORDER

12 This matter is before the Court on Plaintiff's Motion for Extension of Time to Reply to
13 ECF No. 28 (ECF No. 40) and Plaintiff's Motion for Extension of Time to Reply to ECF No. 31
14 (ECF No. 41), both filed on October 21, 2019. The Court also considered Defendants' Combined
15 Response (ECF No. 42), filed on October 23, 2019.

16 **I. BACKGROUND**

17 Plaintiff originally filed his Motion to Quash a third-party subpoena directed at ABC Tow
18 Las Vegas as an emergency motion and requested expedited consideration by the Court due to the
19 fact that the subpoena response was requested by October 7, 2017. (ECF No. 28). The Court
20 declined to consider it on an expedited basis and instead, ordered the responses and replies to be
21 submitted in the normal course while also staying ABC Tow Las Vegas's obligation to respond to
22 the subject subpoena. (ECF No. 29). When Plaintiff filed a second Motion to Quash (ECF No.
23 31) on the same basis for regarding another third-party subpoena, he did not seek expedited
24 treatment, but did request the same stay be extended to this other subpoena for EOS Fitness. The
25 Court granted a stay of EOS Fitness' obligation to respond to the subpoena until it rules on the
26 second Motion to Quash. (ECF No. 33). Defendants filed their response briefs on October 15,
27 2019 and October 17, 2019. (ECF Nos. 38-39). As such, Plaintiff's reply briefs were due on
28 October 22 and October 24, 2019.

1 **II. DISCUSSION**

2 The instant matter is before the Court because now Plaintiff seeks an extension to file
3 reply briefs to both motions to quash. Plaintiff's explanation for the need for an extension until
4 October 31, 2019 is due to commitments in other cases and a personal matter. While the Court
5 appreciates that counsel has duties to other clients and a personal life, it is counsel's responsibility
6 to balance his/her workload. The Court does not look kindly on a request for expedited treatment
7 by the Court, which requires the Court to prioritize this matter over the other more than 600 cases
8 before the Court, while in the next breath counsel asks for an extension to his/her responsibility to
9 submit a reply brief.

10 Moreover, the request for an extension was filed on October 21, 2019, which is one day
11 prior to the first reply brief's deadline and only three days before the second reply brief's
12 deadline. Plaintiff's explanation of workload obligations does not include any sudden or
13 unexpected commitments. Moreover, despite not having a ruling from the Court, Plaintiff's
14 counsel operated under the assumption that an extension would be granted and to date, has not
15 submitted either reply brief.

16 Defendants oppose the extension due to Plaintiff's lack of diligence in the last minute
17 filing of these motions. They also allege prejudice to them in that they are waiting on the
18 employment records to take Plaintiff's deposition that had been set for October 23, 2019, but was
19 taken off calendar because of the pending motions to quash.

20 Apparent in the briefings in this case is a history of communications between counsel that
21 has not been conducive to stipulations to extend deadlines. The Court urges counsel for the
22 parties to cooperate and work together on these issues. Giving full consideration to all of the
23 circumstances, the Court will deny Plaintiff's request to have a new reply brief deadline set for
24 October 31, 2019, but will accord Plaintiff additional time to reply from October 22 and October
25 24, 2019 to October 30, 2019.

26 IT IS THEREFORE ORDERED that Plaintiff's Motion for Extension of Time to Reply to
27 ECF No. 28 (ECF No. 40) is **denied**.

1 IT IS FURTHER ORDERED that Plaintiff's Motion for Extension of Time to Reply to
2 ECF No. 31 (ECF No. 41) is **denied**.

3 IT IS FURTHER ORDERED that Plaintiff's reply briefs shall be due by **October 30,**
4 **2019.**

5 DATED: October 29, 2019



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE